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micromedia
a division of IHS Canada

20 Victoria Street
Toronto, Ontario M5C 2N8
Tel: (416) 362-5211
Toll free: 1-800-387-2689
Fax: (416) 362-6161
Email: info@micromedia.on.ca

Best Practices for Protecting Individual Privacy in Conducting Survey Research

(Summary of Best Practices)

April 1999

Information and Privacy Commissioner/Ontario

80 Bloor Street West
Suite 1700
Toronto, Ontario
M5S 2V1

416-326-3333
1-800-387-0073
Fax: 416-325-9195
TTY (Teletypewriter): 416-325-7539
Web site: http://www.ipc.on.ca

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Foreword

In 1998, the Ontario Provincial Service Restructuring Secretariat asked ministries to assess their services to the public and to subsequently develop action plans to improve any detected service gaps. Given the anticipated volume of survey research and that survey research may involve the collection, retention, use, disclosure, and disposal of personal information, the Information and Privacy Commissioner collaborated with the Ministry of Labour and the Corporate Freedom of Information and Privacy Office of Management Board Secretariat to develop best practices for protecting individual privacy in conducting survey research.

We would like to thank the following individuals for their contribution in developing this paper and the best practices:

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Diane Frank, Manager of Mediation
Debra Grant, Research Officer
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Best Practices for Protecting Individual Privacy in Conducting Survey Research (Summary of Best Practices)

The following is a summary of the best practices for conducting survey research recommended by the Information and Privacy Commissioner. For more information, refer to the *Full Version* or *Condensed Version* of the paper *Best Practices for Protecting Individual Privacy in Conducting Survey Research*.

Stage 1: Issue Definition

Best Practice #1 Clearly define the issues you wish to address. This will help to limit the collection of information to that which is necessary to address the issues at hand.

Stage 2: Research Design and Questionnaire Development

Best Practice #2 Where staff of your institution or another institution conduct the survey, prepare Terms of Reference setting out the requirements for the collection, retention, use, disclosure and disposal of personal information, in accordance with the *Acts*. (See Appendix A in the *Full Version* of the paper for a sample Terms of Reference.)

Best Practice #3 Where an external consultant or private company conducts the research, establish a contractual agreement to ensure that personal information is collected, retained, used, disclosed and disposed of, in accordance with the *Acts*. (See Appendix B in the *Full Version* of the paper for a sample agreement of related terms and conditions.)

Best Practice #4 Review either the Terms of Reference or the contractual agreement periodically during the survey and at the completion of it, to ensure that all conditions set out in either document have been fully complied with.

Best Practice #5 Determine early in the design of your survey if it is necessary to collect personal information, as defined in the *Acts*. If you are uncertain as to whether the information in question is personal information, contact your institution's Freedom of Information and Privacy Co-ordinator or a Policy Advisor at Management Board Secretariat's Corporate Freedom of Information and Privacy Office. If personal information will be collected, you must comply with the privacy protection provisions of the *Acts*.

Best Practice #6 If possible, design a survey so that the information collected does not identify and cannot be used to identify an individual (i.e., an anonymous survey).

Best Practice #7 If the survey cannot be carried out anonymously, design it so that all personal information is replaced with a special code that can only be used to link the survey data to personal information when it is necessary to do so (i.e., a coded survey).

Best Practice #8 When conducting a coded survey, be sure to:

- inform potential participants about this procedure and its purpose;
- retain the coded survey data separately from the personal information; and
- limit the number of people who are able to relink the survey responses with the personal information.

Best Practice #9 When collecting personal information at the same time as the survey responses, for a purpose not directly related to the survey, keep the two types of information completely separate.

Best Practice #10 Determine whether you have the authority to collect the personal information required for the survey, under sections 38(2)/28(2) of the *Acts*.

Best Practice #11 Limit the amount of personal information collected for the survey to what is strictly necessary.

Best Practice #12 Select a survey research method that complements the degree of sensitivity of the information to be collected.

Stage 3: Pretesting (fine-tuning) the Survey

Best Practice #13 Treat any personal information collected during the pretest in the same manner as you would treat personal information collected through the survey.

Stage 4: Sample Selection

Best Practice #14 Where you know in advance that customer or client information will be used to select a survey sample, provide notice of this use at the time of collection. (The subsequent use of the personal information for this purpose would be in compliance with sections 41(b)/31(b) of the *Acts*, since you would be using the personal information for the purpose intended at the time of collection.)

Best Practice #15 Where you have not anticipated using personal information to select a survey sample at the time of collection, only use the information for this purpose if:

- the individual consents to the use; or
- the use is consistent with the purpose for which the information was obtained or compiled.

Best Practice #16 Before collecting personal information indirectly from another institution or third party to obtain a survey research sample, assess your authority to do so under sections 39(1)/29(1) of the *Acts*.

Best Practice #17 The inclusion of personal information in a public database does not necessarily mean that you have the authority to collect that information to select a survey sample. Before collecting personal information from a public database for this purpose, assess whether you have the authority to do so under sections 38(2)/28(2) of the *Acts*.

Best Practice #18 Before sharing data to select a survey sample, prepare a data sharing agreement as per the IPC's *Model Data Sharing Agreement*. Among other things, the agreement should stipulate that:

- the institution conducting the survey must comply with sections 38(2)/28(2) of the *Acts* with respect to the authority to collect the personal information being shared;
- if the party maintaining the personal information bank is an institution subject to one of the *Acts*, it should assess whether it has the authority to use and disclose the personal information for this purpose, respectively, under sections 41/31 and 42/32 of the *Acts*.

Best Practice #19 If possible, avoid collecting personal information to obtain a survey research sample, by having the institution or third party that maintains the personal information contact potential research participants directly on your behalf.

Best Practice #20 Before using personal information to contact potential research participants on behalf of another institution or third party, assess whether you are authorized to use the information for this purpose, under sections 41/31 of the *Acts*.

Best Practice #21 When using personal information to select a survey research sample, comply with the requirements for personal information banks set out under sections 44 to 46 of the provincial *Act*, or sections 34 and 35 of the municipal *Act*.

Stage 5: Data Collection

Best Practice #22 When contacting potential survey participants, take steps to protect their privacy by not disclosing to third parties the name of your institution and the reason for contacting the potential survey participants.

Best Practice #23 Unless the survey is done anonymously, provide assurances of confidentiality only with the proviso that confidentiality is **not** absolute — that a disclosure of personal information may occur if required by statute.

Best Practice #24 When collecting personal information to conduct a survey, provide notice of collection, in compliance with sections 39(2)/29(2) of the *Acts*, unless a waiver has been obtained.

Best Practice #25 Before collecting any information from potential survey participants, provide sufficient information about the research project and obtain informed consent.

Best Practice #26 Whenever possible, collect personal information directly from the individual to whom it relates.

Best Practice #27 In conducting a survey in which personal information is to be collected from someone other than the individual to whom it relates, assess whether you have the authority to do so under sections 39(1)/29(1) of the *Acts*.

Stage 6: Data Analysis

Best Practice #28 Use and disclose personal information collected through the survey only for the purpose(s) specified to the survey participants at the time of collection.

Best Practice #29 Before using personal information for a purpose not specified at the time of collection, obtain the individual's consent.

Stage 7: Reporting of Results

Best Practice #30 Report survey results as aggregate information.

Best Practice #31 Don't report small cells of information, where a specific individual could be identified.

Stage 8: Data Archiving

Best Practice #32 Whenever possible, replace personal information with a special code and store it separately from the survey responses.

Best Practice #33 Retain personal information for the period prescribed in the *Acts* (i.e., section 40(1) of the provincial *Act* together with section 5 of Regulation 460/section 30(1) of the municipal *Act* together with section 5 of Regulation 823).

Best Practice #34 Keep personal information secure as prescribed in the regulations (i.e., section 4 of Regulation 460/section 3 of Regulation 823).

Best Practice #35 To properly dispose of personal information, provincial institutions must comply with section 40(4) of the provincial *Act* together with Regulation 459 and with the *Archives Act* and Management Board Directive 7-5. Municipal institutions should follow the disposal procedures outlined in *IPC Practice 26, Safe and Secure Disposal Procedures for Municipal Institutions*, as there is no equivalent regulation under section 30(4) of the municipal *Act*.

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Introduction

As government institutions strive to become more efficient, accountable and customer focussed, they are more frequently seeking input from the public about their programs and services. One of the most cost-effective ways to elicit this input is through survey research.

Survey research can be used to help plan new programs and services or modify existing programs or services or the manner in which they are delivered, and to help ensure that the programs and services that are provided meet the needs and expectations of customers. Survey research can be used to obtain input from a wide range of individuals, including the direct or potential recipients of programs and services, the staff and managers responsible for planning and delivering programs and services, the taxpayers who provide the funding, and the public at large.

However, while survey research can be an important tool for shaping government programs and services, it may involve the collection, retention, use, disclosure, and disposal of personal information. *Personal information* is defined under the *Freedom of Information and Protection of Privacy Act* (the provincial *Act*) and the *Municipal Freedom of Information and Protection of Privacy Act* (the municipal *Act*) as "recorded information about an identifiable individual." Personal information includes, for example, an individual's name, address, telephone number, age, sex, and his or her personal opinions or views.

Whenever provincial and local government institutions collect, retain, use, disclose, or dispose of personal information, they are required to comply with the privacy protection provisions of the *Acts*, and their regulations. To help institutions comply with the *Acts*, this paper details the privacy considerations at each stage in the design and implementation of survey research projects and recommends some best practices.

Survey research raises two central privacy considerations. The first is the potential collection of personal information from survey research participants. The second is the potential use of previously collected personal information for the purpose of obtaining a sample of survey research participants. With respect to the first consideration, the position advocated in the paper is that most survey research can be carried out anonymously and personally identifiable survey data is only required in very limited and specific circumstances. To the extent that the collection of personal information can be avoided, the privacy considerations will be minimized. However, with respect to the second consideration, it is often not possible to avoid the use of personal information altogether. Even where survey research is conducted anonymously, personal information may still be needed to obtain a sample of survey research participants. Therefore, individual privacy and compliance with the *Acts* will be a consideration in most cases.

For the purposes of the paper, the process of conducting survey research projects has been divided into eight stages:

- issue definition;
- research design and questionnaire development;
- pre-testing;
- sample selection;
- data collection;
- data analysis;
- reporting of results; and
- data archiving.

For the purposes of the paper, where the *Acts* are cited, the sections of the provincial *Act* appear first, followed by a slash (/) and the corresponding sections of the municipal *Act*, e.g., 38(2)/28(2).

For those individuals who are not familiar with the relevant provisions of the *Acts* cited in this paper, your institution's Freedom of Information and Privacy Coordinator will be able to assist you in complying with the requirements of the legislation in developing and conducting surveys.

For a short overview of this paper, or a summary of the recommendations, respectively refer to the *Condensed Version* or the *Summary of Best Practices*, both of which have been published in conjunction with *Best Practices for Protecting Individual Privacy in Conducting Survey Research*.

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Toronto, Ontario M5C 2N8
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Privacy Considerations at Each Stage of a Survey Research Project

Stage 1: Issue Definition

Before developing a survey, it is important to clearly define the issue(s) you wish to address through the survey. In doing so, you must assess the purpose(s) and focus of the survey. For example, is the purpose to gather information to help plan new programs or services, to identify gaps in existing program/service delivery, etc.?

Clearly defining the purpose(s) of the survey will help limit the collection of information to that which is strictly necessary. In survey research that requires the collection of personal information, a clear understanding of the purposes of the survey will help to minimize the collection of personal information.

Under sections 39(2)(b)/29(2)(b) of the *Acts*, whenever personal information is collected, an institution is required to inform the individual to whom the information relates of the principle purpose or purposes for which the personal information will be used. In general, once the individual has been informed of the purposes for the collection, the collection, use and disclosure of that information should be limited to that which is necessary to fulfill the specified purposes. Thus, clearly defining the purposes of the survey is a precondition for determining what information needs to be collected, and how that information may be subsequently used and disclosed.

> ***Best Practice #1***
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> **Clearly define the issues you wish to address. This will help to limit the collection of information to that which is necessary to address the issues at hand.**

Stage 2: Research Design and Questionnaire Development

During the early stages of designing a survey, a number of key issues which may have implications for privacy protection need to be resolved. These issues include deciding who will conduct the survey, whether it will be necessary to collect personal information, whether you have the legal authority to collect the personal information, and the most appropriate type of survey research method to use.

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Who Will Conduct the Survey?

At some point during the survey research project, you need to decide whether the survey will be conducted by internal staff, by staff of another provincial or local government institution, or by external consultants. Regardless of who conducts the research, the same privacy protection rules should apply to any personal information that may be involved.

Whenever staff of an institution conduct survey research, Terms of Reference should set out the requirements for the collection, retention, use, disclosure and disposal of personal information, in accordance with the *Acts*. (A sample Terms of Reference is contained in Appendix A.) Whenever external consultants or private companies conduct survey research, they are collecting information on behalf of an institution and, as agents of the institution, are subject to the same privacy protection requirements as any other employees of institutions. In such cases, contractual agreements should be established to clarify external consultants' obligations to collect, retain, use, disclose and dispose of personal information, in accordance with the *Acts*. Contractual agreements should also ensure institutions retain control over any personal information that may be involved in survey research. (A sample agreement is contained in Appendix B.)

It is important that you review either the Terms of Reference or the contractual agreement periodically during the survey and at the completion of it, to ensure that all conditions set out in either document have been fully complied with.

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During the early stages of research design, determine what personal information, if any, needs to be collected from survey research participants. This is an important issue to consider up-front, because if you want to collect personal information, you must first ensure that you have the authority to do so under the *Acts*. This collection issue should not be confused with the issue of using personal information that has previously been collected by your institution to select a survey research sample. That is a separate issue that will be addressed in Stage 4.

Determining whether you need to collect personal information, as defined under the *Acts*, may not be straightforward. In making this determination, consider who will be included in the target population, the nature of the information that will be requested from participants, and the extent to which the survey responses will identify or could be used to identify an individual.

The views and opinions elicited by the survey may not clearly fall within the definition of personal information. For example, if the survey has been designed to elicit the views and opinions of employees or groups of professionals, such as doctors, the information may not fall under the definition of personal information.

Various orders of the Information and Privacy Commissioner (IPC) have found that, in general, the views and opinions expressed in an individual's professional capacity are **not** the individual's personal information. Institutions are not required to comply with the privacy protection provisions of the *Acts* with respect to information that clearly falls outside the definition of personal information. If there is any ambiguity about whether the information is personal information, err on the side of caution by complying with the *Acts*.

Also, regardless of whether information is defined as personal information for the purposes of the *Acts*, survey participants may have concerns about the manner in which their views and opinions expressed through the survey research are used and disclosed. Therefore, whenever possible, conduct surveys anonymously (i.e., so that the survey responses do not identify and cannot be used to identify an individual). Conducting surveys anonymously is the best way of ensuring the privacy of survey participants.

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Anonymous Surveys

In designing any survey, always consider the possibility of collecting information such that the survey data do not identify and cannot be used to identify an individual. To the extent that the survey can be conducted anonymously, the risk of unauthorized and/or inappropriate collection, use and disclosure of personal information will be kept to a minimum. Moreover, in conducting anonymous surveys, compliance with the *Acts* is not required.

While anonymous surveys may be ideal from a privacy perspective, they present a number of research design challenges. One challenge is that, since there is no way of knowing who has responded to an anonymous survey, it will be difficult to follow-up with those individuals who do not respond. A lack of follow-up could result in a poor response rate and, consequently, the validity of the results of the survey could be questioned. However, to help ensure an adequate response rate, follow-up could be accomplished by contacting all potential participants regardless of whether they responded.

Alternatively, participants could be provided with another means of indicating that they had responded (e.g., they could mail in a postcard containing their name or some other personal identifier indicating that they had responded, at the same time as they mail in their anonymous questionnaire). Then, follow-up could be carried out with only those participants who have not yet confirmed that they have responded.

Another challenge is that anonymous surveys do not permit verification or clarification of information provided by survey participants. In addition, anonymous survey data cannot be linked to information obtained in successive surveys or to information available through other sources such as a client or customer database. While this will not be an issue in most survey research, in some circumstances there may be a clear rationale for linking information across time and/or sources or for following-up with participants.

Best Practice #6

If possible, design a survey so that the information collected does not identify and cannot be used to identify an individual (i.e., an anonymous survey).

Coded Surveys

An alternative to having completely anonymous survey responses would be to replace all personally identifiable data in the survey with a special code. This special code should not, in and of itself, identify the individual but should be used to link the survey data with personal information for limited and specific purposes (i.e., to facilitate follow-up and the linking of information across time and sources).

The survey data with the special code should be retained separately from the personal information that identifies participants. The only link between the two sets of data should be the special code. Access to the personal information through the special code should be limited to those individuals with a need-to-know for specific purposes, as outlined above.

If the survey is to be coded in this manner, potential participants should be informed of this procedure and its purpose prior to participation in the survey. Also, survey data with this type of coding falls within the definition of personal information. Therefore, you are required to comply with the *Acts* with respect to the collection, retention, use, disclosure, and disposal of this information.

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Personal Information Not Directly Related to the Survey

In some cases, you may want to collect personal information at the same time that you collect responses to the survey for a purpose not directly related to the current survey. For example, you may want survey participants to provide personal information, such as name, address and/or telephone number, so that you may provide them with information about the programs or services offered by your institution, provide them with a summary of the survey results or contact them as potential participants in subsequent research projects.

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An alternative to having completely anonymous survey responses would be to replace all personally identifiable data in the survey with a special code. This special code should not, in and of itself, identify the individual but should be used to link the survey data with personal information for limited and specific purposes (i.e., to facilitate follow-up and the linking of information across time and sources).

The survey data with the special code should be retained separately from the personal information that identifies participants. The only link between the two sets of data should be the special code. Access to the personal information through the special code should be limited to those individuals with a need-to-know for specific purposes, as outlined above.

If the survey is to be coded in this manner, potential participants should be informed of this procedure and its purpose prior to participation in the survey. Also, survey data with this type of coding falls within the definition of personal information. Therefore, you are required to comply with the *Acts* with respect to the collection, retention, use, disclosure, and disposal of this information.

> ***Best Practice #7***
>
> **If the survey cannot be carried out anonymously, design it so that all personal information is replaced with a special code that can only be used to link the survey data to personal information when it is necessary to do so (i.e., a coded survey).**

> ***Best Practice #8***
>
> **When conducting a coded survey, be sure to:**
>
> - **inform potential participants about this procedure and its purpose;**
> - **retain the coded survey data separately from the personal information; and**
> - **limit the number of people who are able to relink the survey responses with the personal information.**

Personal Information Not Directly Related to the Survey

In some cases, you may want to collect personal information at the same time that you collect responses to the survey for a purpose not directly related to the current survey. For example, you may want survey participants to provide personal information, such as name, address and/or telephone number, so that you may provide them with information about the programs or services offered by your institution, provide them with a summary of the survey results or contact them as potential participants in subsequent research projects.

In such cases, since there is really no need to link the personal information to the survey responses, survey participants should **not** be asked to provide this information with their responses. To ensure that there is no possibility of the survey responses being linked to the personal information, the two types of information should be collected separately. For example, survey participants could be provided with a separate postcard containing their personal information (i.e., name, address and/or telephone number) to mail to your institution indicating their desire for a summary of the survey results.

Best Practice #9

When collecting personal information at the same time as the survey responses, for a purpose not directly related to the survey, keep the two types of information completely separate.

If You Need to Collect Personal Information, Do You Have the Authority?

If you determine that it will be necessary to collect personal information in the course of conducting a survey, assess whether you have the authority to collect the personal information under sections 38(2)/28(2) of the *Acts*.

Sections 38(2)/28(2) set out the conditions under which personal information may be collected. Specifically, they state: "No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or necessary to the proper administration of a lawfully authorized activity."

If one of these three conditions does not exist, you do not have the authority to collect the personal information under the *Acts*. Where you determine that you do not have the authority to collect, you should consider conducting an anonymous survey, as discussed previously.

Best Practice #10

Determine whether you have the authority to collect the personal information required for the survey, under sections 38(2)/28(2) of the *Acts*.

Best Practice #11

Limit the amount of personal information collected for the survey to what is strictly necessary.

Determine the Most Appropriate Survey Research Method

In designing your survey, select a survey research method that will elicit the desired information from survey respondents (e.g., mail, telephone, personal interviews, focus groups, e-mail, Internet Web site, disk-by-mail). However, some methods are more intrusive than others. For example, receiving a questionnaire in the mail may be less intrusive than a telephone survey.

The nature of the information to be requested in the survey should be considered when determining the most appropriate method to use. For example, you would probably not choose a telephone survey to elicit sensitive information about an individual's health, but rather, a less intrusive method, such as an anonymous questionnaire.

> ***Best Practice #12***
>
> **Select a survey research method that complements the degree of sensitivity of the information to be collected.**

Stage 3: Pretesting (fine-tuning) the Survey

When you pretest the survey, you may collect personal information about pretest participants. Therefore, apply the best practices discussed in this paper to any personal information collected during the pre-test phase of the project.

> ***Best Practice #13***
>
> **Treat any personal information collected during the pretest in the same manner as you would treat personal information collected through the survey.**

Stage 4: Sample Selection

Even if a survey is conducted anonymously, you may still need to collect or use personal information to obtain a survey research sample. The sample can be obtained in a number of ways depending on the purposes for conducting the survey. Some of the more common methods of obtaining a survey research sample are as follows:

- by contacting those individuals with whom your institution has had direct contact in the context of the programs or services that it provides (i.e., using the personal information previously collected from your direct customers or clients);

In such cases, since there is really no need to link the personal information to the survey responses, survey participants should **not** be asked to provide this information with their responses. To ensure that there is no possibility of the survey responses being linked to the personal information, the two types of information should be collected separately. For example, survey participants could be provided with a separate postcard containing their personal information (i.e., name, address and/or telephone number) to mail to your institution indicating their desire for a summary of the survey results.

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- by contacting those individuals with whom your institution has had direct contact in the context of the programs or services that it provides (i.e., using the personal information previously collected from your direct customers or clients);

- by contacting those individuals on a list obtained from another institution or third party (i.e., indirectly collecting personal information that was previously collected by another institution or third party); and
- by asking another institution or third party to contact individuals on your behalf (i.e., by having another institution or third party use personal information previously collected from its customers or clients).

Depending on which method is used to obtain your survey research sample, different privacy issues need to be addressed. The privacy considerations associated with each method are discussed below.

Using Personal Information Previously Collected from your Customers or Clients

In conducting surveys of your direct customers or clients, you will need to use personal information that has already been collected from them to obtain the survey research sample. Usually, personal information, such as name, address, and/or telephone number, is only needed to contact potential survey participants. However, in some cases, additional personal information (e.g., age, gender, education, and income) may be needed to select a sample with specific characteristics. In most cases, this client or customer information would have been collected within the context of delivering the programs or services that are the focus of the survey.

Providing Notice at the Time of Collection

If you anticipate in advance that customer or client information will be used to obtain a survey research sample, then the appropriate notice of this use should be provided at the time of collection.

Sections 39(2)/29(2) of the *Acts* state that where personal information is collected on behalf of an institution, the head shall, unless notice is waived by the responsible minister, inform the individual to whom the information relates of:

(a) the legal authority for the collection;

(b) the principal purpose or purposes for which the personal information is intended to be used; and

(c) the title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

Best Practice #14

Where you know in advance that customer or client information will be used to select a survey sample, provide notice of this use at the time of collection. (The subsequent use of the personal information for this purpose would be in compliance with sections 41(b)/31(b) of the *Acts*, since you would be using the personal information for the purpose intended at the time of collection.)

No Notice Provided at the Time of Collection

Although providing notice of the use of personal information for survey research purposes is always the best practice, in some circumstances the *Acts* may permit the use of personal information for this purpose even though no notice was provided at the time of collection.

Sections 41/31 of the *Acts* address the *use* of personal information. These sections state that an institution shall not use personal information except:

(a) where the person to whom the information relates has identified that information in particular and consented to its use;

(b) for the purpose for which it was obtained or compiled or for a consistent purpose; or

(c) for a purpose for which the information may be disclosed to the institution under sections 42/32 of the *Acts*.

Under subsection (a), personal information could be used to select a survey research sample if the individual has consented to this use. However, in many cases it will not be reasonable or practical to obtain consent from every potential survey participant and you will have to assess whether you may use the personal information for this purpose under subsection (b).

In most customer or client surveys, the personal information that would be used to obtain a survey research sample would have been obtained within the context of providing the service or program which is the focus of the survey. The *Acts* state that where personal information has been collected *directly* from the individual to whom it relates, the purpose of a use of that information is a consistent purpose (sections 41(b)/31(b) of the *Acts*) only if the individual *might reasonably have expected* such a use (sections 43/33 of the *Acts*). Where personal information has been collected *indirectly* from another source, the purpose of a use of that information is a consistent purpose only if it is *reasonably compatible* with the purpose for which it was obtained or compiled.

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Where you know in advance that customer or client information will be used to select a survey sample, provide notice of this use at the time of collection. (The subsequent use of the personal information for this purpose would be in compliance with sections 41(b)/31(b) of the *Acts*, since you would be using the personal information for the purpose intended at the time of collection.)

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Subsections 41(c)/31(c) do not apply when you obtain the survey sample through the use of information previously collected from your direct clients or customers. It may apply when the survey sample is obtained through the collection of information from another institution or third party, as discussed below.

Best Practice #15

Where you have not anticipated using personal information to select a survey sample at the time of collection, only use the information for this purpose if:

- **the individual consents to the use; or**
- **the use is consistent with the purpose for which the information was obtained or compiled.**

Collecting Personal Information from Another Institution or Third Party

In conducting surveys of individuals other than your direct customers or clients, you may wish to select your survey sample through the collection of personal information from another institution or third party. This is considered to be an *indirect collection* of personal information under the *Acts*.

Sections 39(1)/29(1) of the *Acts* require that personal information be collected directly from the individual to whom it relates, unless certain circumstances listed in sections 39(1)(a) to (h)/29(1)(a) to (h) exist (e.g., where the individual authorizes another manner of collection, where another manner of collection is authorized by or under a statute, etc.). If you intend to collect personal information other than directly from the individual, you must determine whether you have the authority to do so under sections 39(1)/29(1).

Sections 39(1)(c)/29(1)(c) permit the indirect collection of personal information where the Information and Privacy Commissioner has authorized this manner of collection under sections 59(c)/46(c). Sections 59(c)/46(c) state that the Commissioner may, in appropriate circumstances, authorize the collection of personal information other than directly from the individual. Where no other provisions in sections 39(1)/29(1) authorize this manner of collection, you should apply to the Commissioner for authorization. You can do this by completing an Application for Indirect Collection, available from the IPC.

Best Practice #16

Before collecting personal information indirectly from another institution or third party to obtain a survey research sample, assess your authority to do so under sections 39(1)/29(1) of the *Acts*.

Collecting Information from Public Records for Sample Selection

Public databases are one source of information that may be used to compile lists of potential research participants. A list of public databases can be found in Management Board Secretariat's annual Directory of Records. The list includes public databases such as the Personal Property Security Registration System and the Land Registration System maintained by the Ministry of Consumer and Commercial Relations.

Under sections 37/27 of the *Acts*, public databases are excluded from the privacy protection provisions of the *Acts*. The rationale for this exclusion is that there are legitimate needs for this information to be widely available to the general public, and imposing restrictions on the use and disclosure of this information under the *Acts* would not make sense. But, although public databases are excluded from the privacy provisions of the *Acts*, this does not mean that there are no privacy implications in the collection, use and disclosure of this information for unintended purposes without the knowledge and consent of individuals.

The privacy investigation reports of the IPC have generally found that under sections 37/27, personal information that is maintained by an institution may be excluded from the application of the *Acts* only if the personal information is maintained by that institution specifically for the purpose of creating a record which is available to the general public. Other institutions cannot claim the exclusion unless they also maintain the personal information for this purpose. Consequently, you may only collect personal information contained in a public database if you have the authority to collect the personal information under sections 38(2)/28(2) of the *Acts*.

> ***Best Practice #17***
>
> **The inclusion of personal information in a public database does not necessarily mean that you have the authority to collect that information to select a survey sample. Before collecting personal information from a public database for this purpose, assess whether you have the authority to do so under sections 38(2)/28(2) of the *Acts*.**

Collecting Information from Another Institution's Personal Information Banks for Sample Selection

Another possible source of information that may be used to compile lists of potential research participants is the personal information maintained by other government institutions or other third parties. When institutions obtain a survey research sample in this manner, this is referred to as *data sharing*.

Subsections 41(c)/31(c) do not apply when you obtain the survey sample through the use of information previously collected from your direct clients or customers. It may apply when the survey sample is obtained through the collection of information from another institution or third party, as discussed below.

Best Practice #15

Where you have not anticipated using personal information to select a survey sample at the time of collection, only use the information for this purpose if:

- **the individual consents to the use; or**
- **the use is consistent with the purpose for which the information was obtained or compiled.**

Collecting Personal Information from Another Institution or Third Party

In conducting surveys of individuals other than your direct customers or clients, you may wish to select your survey sample through the collection of personal information from another institution or third party. This is considered to be an *indirect collection* of personal information under the *Acts*.

Sections 39(1)/29(1) of the *Acts* require that personal information be collected directly from the individual to whom it relates, unless certain circumstances listed in sections 39(1)(a) to (h)/29(1)(a) to (h) exist (e.g., where the individual authorizes another manner of collection, where another manner of collection is authorized by or under a statute, etc.). If you intend to collect personal information other than directly from the individual, you must determine whether you have the authority to do so under sections 39(1)/29(1).

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Before collecting personal information indirectly from another institution or third party to obtain a survey research sample, assess your authority to do so under sections 39(1)/29(1) of the *Acts*.

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Public databases are one source of information that may be used to compile lists of potential research participants. A list of public databases can be found in Management Board Secretariat's annual Directory of Records. The list includes public databases such as the Personal Property Security Registration System and the Land Registration System maintained by the Ministry of Consumer and Commercial Relations.

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> **The inclusion of personal information in a public database does not necessarily mean that you have the authority to collect that information to select a survey sample. Before collecting personal information from a public database for this purpose, assess whether you have the authority to do so under sections 38(2)/28(2) of the *Acts*.**

Collecting Information from Another Institution's Personal Information Banks for Sample Selection

Another possible source of information that may be used to compile lists of potential research participants is the personal information maintained by other government institutions or other third parties. When institutions obtain a survey research sample in this manner, this is referred to as *data sharing*.

The sharing of personal information between two organizations runs counter to two of the most fundamental principles of data protection — that personal information should be collected directly from the individual to whom it pertains, and should only be used for the purpose for which it was collected (with limited exceptions). Data sharing respects neither of these principles since the personal information is collected indirectly and used for a purpose for which it may not have been intended at the time of collection.

Data sharing between organizations may lead to individuals' loss of control over their personal information. Therefore, where possible, sharing should not occur without exploring less privacy-intrusive means of meeting the objectives of the survey. Before making a decision to share personal data, consider all practical alternatives which are more privacy protective. You should also consider the merits of any contemplated data sharing and whether sharing is appropriate.

Any sharing of personal information should be supported by a written *data sharing agreement*. Such an agreement will clarify the rights and obligations of all parties in a data sharing activity and thereby ensure compliance with the *Acts*. To prepare such an agreement, refer to the IPC's *Model Data Sharing Agreement*.

Among other things, the agreement should specify that the institution conducting the survey should assess whether it has the authority to collect the personal information in question. In addition, if the party maintaining the personal information bank is an institution subject to one of the *Acts*, it should assess whether it has the authority to use and disclose the personal information for this purpose, respectively, under sections 41/31 and 42/32 of the *Acts*.

One of the exceptions under sections 42/32 that an institution maintaining the personal information bank may rely on to disclose this personal information is subsection 42(a)/32(a), which states that an institution shall not disclose personal information in its custody or under its control except in accordance with Parts II/I. Subsections 21(1)(e)/14(1)(e) fall under Parts II/I and state that an institution may disclose personal information that identifies an individual to a person other than the individual to whom the information relates for a **research purpose**, when certain conditions are met. These conditions are:

- the disclosure must be consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained;
- the research purpose for which the disclosure is to be made cannot be reasonably achieved unless the information is provided in a form which allows individuals to be identified; and
- the person who is to receive the record must agree to comply with conditions relating to security and confidentiality prescribed by section 10(1) of Regulation 460/section 10(1) of Regulation 823.

One of the conditions set out in the Regulations is that the recipient of the information must obtain written authority from the institution maintaining the personal information in order to contact, either directly or indirectly, any individual to whom the personal information relates.

Section 10(2) of Reg. 460 and section 10(2) of Reg. 823 require that an agreement relating to the security and confidentiality of personal information to be disclosed for a research purpose be in *Form 1*, which is set out in the Regulations.

Best Practice #18

Before sharing data to select a survey sample, prepare a data sharing agreement as per the IPC's *Model Data Sharing Agreement*. Among other things, the agreement should stipulate that:

- **the institution conducting the survey must comply with sections 38(2)/28(2) of the *Acts* with respect to the authority to collect the personal information being shared;**
- **if the party maintaining the personal information bank is an institution subject to one of the *Acts*, it should assess whether it has the authority to use and disclose the personal information for this purpose, respectively, under sections 41/31 and 42/32 of the *Acts*.**

Obtaining Your Survey Research Sample Indirectly Through Another Institution or Third Party

In some cases, it may be possible to avoid collecting personal information to obtain a survey research sample. This could be done by asking another institution or third party to use the information that it maintains (e.g., information in a public database or personal information bank) to contact potential research participants directly on your behalf. For example, an institution or third party could be asked to mail the surveys directly to potential participants. If the survey is an anonymous survey, participants could be asked to return their anonymous surveys directly to the institution conducting the research. The institution conducting the survey would thereby avoid the collection of personal information altogether.

However, if the survey is not anonymous, the institution conducting the research must have the authority to collect the personal information under sections 38(2)/28(2) of the *Acts*. In addition, all potential participants should be provided with the proper notice of collection of personal information by the institution conducting the survey, as required under sections 39(2)/29(2) of the *Acts*.

One of the conditions set out in the Regulations is that the recipient of the information must obtain written authority from the institution maintaining the personal information in order to contact, either directly or indirectly, any individual to whom the personal information relates.

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However, if the survey is not anonymous, the institution conducting the research must have the authority to collect the personal information under sections 38(2)/28(2) of the *Acts*. In addition, all potential participants should be provided with the proper notice of collection of personal information by the institution conducting the survey, as required under sections 39(2)/29(2) of the *Acts*.

Regardless of whether the survey is conducted anonymously, the institution maintaining the information must assess whether it has the authority, under sections 41/31 of the *Acts*, to use the information to contact potential research participants (on behalf of the institution conducting the research).

> ***Best Practice #19***
>
> If possible, avoid collecting personal information to obtain a survey research sample, by having the institution or third party that maintains the personal information contact potential research participants directly on your behalf.

> ***Best Practice #20***
>
> Before using personal information to contact potential research participants on behalf of another institution or third party, assess whether you are authorized to use the information for this purpose, under sections 41/31 of the *Acts*.

Implications for Personal Information Banks

Regardless of whether notice was provided at the time of collection, if you use personal information to obtain a survey research sample, ensure that you comply with the requirements for personal information banks set out under sections 44 to 46 of the provincial *Act*, and sections 34 and 35 of the municipal *Act*. A *personal information bank* consists of personal information under your institution's control that is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

If the personal information of customers or clients is to be used for survey research purposes on a regular basis, then this should be specified in the index of personal information banks, as required under subsections 45(d)/34(1)(d) of the *Acts*. Where the use has not been included in the index of personal information banks, sections 46(1)(a)/35(1)(a) of the *Acts* require that you attach or link to the personal information a record of this use. In addition, if the use has not been included in the index, section 46(3) of the provincial *Act* requires that the responsible minister be notified and the use be included in the index in the future. Under section 34(2) of the municipal *Act*, you must ensure that the index is amended as required to ensure its accuracy.

Best Practice #21

When using personal information to select a survey research sample, comply with the requirements for personal information banks set out under sections 44 to 46 of the provincial *Act*, or sections 34 and 35 of the municipal *Act*.

Stage 5: Data Collection

Contacting Potential Participants in the Survey

The fact that an individual has received one of your institution's programs or services could be considered to be sensitive personal information. When contacting potential survey participants, ensure that you do not invade their privacy by inadvertently disclosing this information to third parties, such as family members or co-workers.

For example, when contacting potential participants by mail, your institution name should not be printed on the outside of the envelope, as this information could reveal to others residing in the household that the individual has some relationship with your institution. Similarly, when contacting potential participants by telephone, do not disclose the personal information of the potential participant by identifying your institution or the purpose of the telephone call in a voice mail message, a message left on an answering machine, or a message taken by a third party who happens to answer the telephone. Also, steps should be taken to ensure that the name of your institution is not inadvertently disclosed to third parties through telecommunications technology such as Caller Identification.

Best Practice #22

When contacting potential survey participants, take steps to protect their privacy by not disclosing to third parties the name of your institution or the reason for contacting the potential survey participants.

Providing Assurances of Confidentiality

To encourage them to participate in the research and to provide open and honest responses, researchers typically assure survey research participants that their responses will be kept confidential. However, as previously noted, not all of the information provided by survey participants (e.g., the views and opinions expressed by individuals in their professional capacity) will be considered to be personal information that is subject to the privacy protection provisions of the *Acts*. In addition, all records (i.e., personal information and general records) in the custody or under the control of an institution could be subject to an access request under the *Acts*.

Regardless of whether the survey is conducted anonymously, the institution maintaining the information must assess whether it has the authority, under sections 41/31 of the *Acts*, to use the information to contact potential research participants (on behalf of the institution conducting the research).

> ***Best Practice #19***
>
> **If possible, avoid collecting personal information to obtain a survey research sample, by having the institution or third party that maintains the personal information contact potential research participants directly on your behalf.**

> ***Best Practice #20***
>
> **Before using personal information to contact potential research participants on behalf of another institution or third party, assess whether you are authorized to use the information for this purpose, under sections 41/31 of the *Acts*.**

Implications for Personal Information Banks

Regardless of whether notice was provided at the time of collection, if you use personal information to obtain a survey research sample, ensure that you comply with the requirements for personal information banks set out under sections 44 to 46 of the provincial *Act*, and sections 34 and 35 of the municipal *Act*. A *personal information bank* consists of personal information under your institution's control that is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

If the personal information of customers or clients is to be used for survey research purposes on a regular basis, then this should be specified in the index of personal information banks, as required under subsections 45(d)/34(1)(d) of the *Acts*. Where the use has not been included in the index of personal information banks, sections 46(1)(a)/35(1)(a) of the *Acts* require that you attach or link to the personal information a record of this use. In addition, if the use has not been included in the index, section 46(3) of the provincial *Act* requires that the responsible minister be notified and the use be included in the index in the future. Under section 34(2) of the municipal *Act*, you must ensure that the index is amended as required to ensure its accuracy.

Best Practice #21

When using personal information to select a survey research sample, comply with the requirements for personal information banks set out under sections 44 to 46 of the provincial *Act*, or sections 34 and 35 of the municipal *Act*.

Stage 5: Data Collection

Contacting Potential Participants in the Survey

The fact that an individual has received one of your institution's programs or services could be considered to be sensitive personal information. When contacting potential survey participants, ensure that you do not invade their privacy by inadvertently disclosing this information to third parties, such as family members or co-workers.

For example, when contacting potential participants by mail, your institution name should not be printed on the outside of the envelope, as this information could reveal to others residing in the household that the individual has some relationship with your institution. Similarly, when contacting potential participants by telephone, do not disclose the personal information of the potential participant by identifying your institution or the purpose of the telephone call in a voice mail message, a message left on an answering machine, or a message taken by a third party who happens to answer the telephone. Also, steps should be taken to ensure that the name of your institution is not inadvertently disclosed to third parties through telecommunications technology such as Caller Identification.

Best Practice #22

When contacting potential survey participants, take steps to protect their privacy by not disclosing to third parties the name of your institution or the reason for contacting the potential survey participants.

Providing Assurances of Confidentiality

To encourage them to participate in the research and to provide open and honest responses, researchers typically assure survey research participants that their responses will be kept confidential. However, as previously noted, not all of the information provided by survey participants (e.g., the views and opinions expressed by individuals in their professional capacity) will be considered to be personal information that is subject to the privacy protection provisions of the *Acts*. In addition, all records (i.e., personal information and general records) in the custody or under the control of an institution could be subject to an access request under the *Acts*.

The only way to ensure complete confidentiality is to avoid collecting personal information altogether by conducting anonymous surveys. Where the research design, for one reason or another, requires that the survey data be linked to an individual, assurances of confidentiality should only be provided with the proviso that confidentiality is not absolute — that a disclosure of personal information may occur if required by statute.

> ***Best Practice #23***
>
> **Unless the survey is done anonymously, provide assurances of confidentiality only with the proviso that confidentiality is not absolute — that a disclosure of personal information may occur if required by statute.**

Providing Notice of Collection

Unless the survey is conducted anonymously, notice of the collection of personal information should be provided at the time of the survey. The requirements for providing notice of collection are outlined in Stage 4.

> ***Best Practice #24***
>
> **When collecting personal information to conduct a survey, provide notice of collection, in compliance with sections 39(2)/29(2) of the *Acts*, unless a waiver has been obtained.**

Obtaining Informed Consent

Participation in survey research should always be on a voluntary basis. Individuals should not be asked to participate without their informed consent. Regardless of whether the survey responses are anonymous or linked to an identifiable individual, potential participants should be provided with as much information about the survey as possible. For example, the information provided to potential research participants may include the following:

- the name of the organization conducting the research;
- the name of the institution sponsoring the research;
- the purpose of the research;
- how much time will be involved;
- that participation is voluntary and non-response to specific items is acceptable; and
- how respondents will be informed about the survey results.

In addition, if the survey is not being done anonymously, individuals should be told why it will be necessary to link the survey responses to personal information (i.e., to link survey responses with information collected at another point in time or with information obtained from another source such as a client or customer database, or to follow-up with participants on their specific responses to the survey).

> ***Best Practice #25***
>
> **Before collecting any information from potential survey participants, provide sufficient information about the research project and obtain informed consent.**

Collecting Personal Information from Third Parties

In most survey research, any personal information that is collected will be collected directly from the individual to whom it relates. However, it is possible that some research designs may require the collection of personal information from third parties such as family members, caregivers, social workers, co-workers, or employees' supervisors.

Sections 39(1)/29(1) of the *Acts* require that personal information be collected directly from the individual to whom it relates, unless certain circumstances listed in sections 39(1)(a) to (h)/29(1)(a) to (h) exist (e.g., where the individual authorizes another manner of collection, where another manner of collection is authorized by or under a statute, etc.). Thus, if you intend to collect personal information from someone other than the individual to whom it relates, you must determine whether you have the authority to do so under sections 39(1)/29(1).

> ***Best Practice #26***
>
> **Whenever possible, collect personal information directly from the individual to whom it relates.**

> ***Best Practice #27***
>
> **In conducting a survey in which personal information is to be collected from someone other than the individual to whom it relates, assess whether you have the authority to do so under sections 39(1)/29(1) of the *Acts*.**

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Stage 6: Data Analysis

In analysing the data, the survey responses should only be used and disclosed for the purposes specified to the survey participants at the time of collection. Sections 41/31 of the *Acts* address the *use* of personal information. These sections state that an institution shall not use personal information in its custody or under its control except,

- where the person to whom the information relates has identified that information in particular and consented to its use;
- for the purpose for which it was obtained or compiled or for a consistent purpose; or
- for a purpose for which the information may be disclosed to the institution under sections 42/32 of the *Acts*.

If you decide to use or disclose the survey responses for a secondary purpose not specified at the time of collection and the survey has not been conducted anonymously, obtain the individual's consent.

> ***Best Practice #28***
>
> Use and disclose personal information collected through the survey only for the purpose(s) specified to the survey participants at the time of collection.

> ***Best Practice #29***
>
> Before using personal information for a purpose not specified at the time of collection, obtain the individual's consent.

Stage 7: Reporting of Results

Survey results are generally reported as aggregate information, thus protecting the privacy of individual participants. However, in some cases a survey may result in small cells of information (i.e., where a small number of people is being represented), that could inadvertently identify or be used to identify an individual. For example, in an anonymous survey of institution employees, survey participants might be asked to specify their gender and employee category (i.e., executive, manager, supervisor, or staff). But, if there is only one individual of a particular gender who falls within a particular employee category (e.g., female/executive), then that individual's responses will be easy to identify.

If it is known in advance that a survey could result in information that relates to a small number of individuals (i.e., small cells), the collection of personal information can be avoided by eliminating or combining those categories that include few individuals. In the above example, the size of the cells could be increased by eliminating gender categories or by combining executives and managers into one category. However, if the potential occurrence of small cells is not anticipated in advance and personal information is inadvertently collected, further use and disclosure of this information should be avoided by not reporting information relating to a small number of individuals (e.g., less than five).

Best Practice #30

Report survey results as aggregate information.

Best Practice #31

Don't report small cells of information, where a specific individual could be identified.

Stage 8: Data Archiving

Institutions must consider how the survey data will be stored for future use, for how long and in what format it will be stored, and how it will eventually be disposed of. If the survey has not been done anonymously, there are certain requirements for retaining personal information specified in the *Acts*.

In addition to these requirements, whenever possible, all personal information should be replaced with a special code and stored separately from the survey responses. The survey responses should only be relinked to the personal information when it is necessary to do so for specific purposes.

With respect to disposal, all provincial government records are subject to the *Archives Act* and Management Board Directive 7-5, and may not be disposed of without the authorization of the Archivist of Ontario.

Best Practice #32

Whenever possible, replace personal information with a special code and store it separately from the survey responses.

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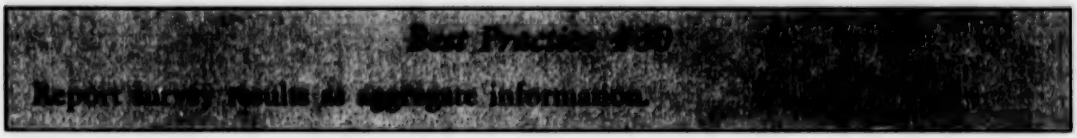

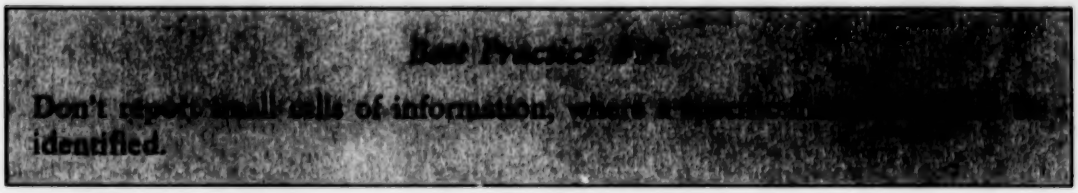

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In addition to these requirements, whenever possible, all personal information should be replaced with a special code and stored separately from the survey responses. The survey responses should only be relinked to the personal information when it is necessary to do so for specific purposes.

With respect to disposal, all provincial government records are subject to the *Archives Act* and Management Board Directive 7-5, and may not be disposed of without the authorization of the Archivist of Ontario.

Best Practice #33

Retain personal information for the period prescribed in the *Acts* (i.e., section 40(1) of the provincial *Act* together with section 5 of Regulation 460/section 30(1) of the municipal *Act* together with section 5 of Regulation 823).

Best Practice #34

Keep personal information secure as prescribed in the regulations (i.e., section 4 of Regulation 460/section 3 of Regulation 823).

Best Practice #35

To properly dispose of personal information, provincial institutions must comply with section 40(4) of the provincial *Act* together with Regulation 459 and with the *Archives Act* and Management Board Directive 7-5. Municipal institutions should follow the disposal procedures outlined in *IPC Practice 26, Safe and Secure Disposal Procedures for Municipal Institutions*, as there is no equivalent regulation under section 30(4) of the municipal *Act*.

Conclusion

Government institutions are more frequently undertaking survey research to elicit input on their programs and services. This paper has detailed the privacy considerations at each stage in the design and implementation of survey research projects, and has recommended some best practices.

Collecting personal information from survey participants, and using previously collected personal information to obtain a survey research sample are the two central privacy considerations in survey research. With respect to the collection of personal information, we support the view that most survey research can be carried out anonymously and personally identifiable survey data is only required in limited and specific circumstances. With respect to the use of previously collected personal information, even where survey research is carried out anonymously, personal information may still be needed to obtain your survey sample. Thus, you will need to consider individual privacy and compliance with the *Acts* in most cases.

Appendix A — Sample Terms of Reference

Whenever staff of an institution conduct survey research, Terms of Reference should set out the requirements for the collection, retention, use, disclosure and disposal of personal information, in accordance with the *Acts*. A sample Terms of Reference for a municipal institution is found below.

Terms of Reference

(Preamble describing events leading up to the survey, the survey itself, etc.)

- The purpose of this survey is to _____.
- The staff responsible for conducting the survey are _____.
- The staff conducting the survey shall comply with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, and its regulations, in the course of conducting the survey.
- The staff conducting the survey will use and/or disclose the data, information, reports, material or other documents of any nature which are disclosed, revealed or transmitted to them, or to which they have access, solely for the purpose of conducting the survey.
- Staff will collect, use or disclose only the minimal amount of personal information necessary to conduct the survey.
- When personal information is collected, staff shall provide the survey respondents with proper notice of collection, in accordance with section 29(2) of the *Municipal Freedom of Information and Protection of Privacy Act*.
- Staff will ensure that personal information used during the survey shall be retained in accordance with section 30(1) of the *Municipal Freedom of Information and Protection of Privacy Act* together with section 5 of Regulation 823.
- Staff will ensure that any personal information to be disposed of upon completion of the survey, is done so in accordance with the disposal procedures outlined in *IPC Practice 26, Safe and Secure Disposal Procedures for Municipal Institutions.*
- Staff shall keep all information involved in the survey secure and confidential.

For more information, contact: _____.

Appendix B — Sample Agreement with External Consultant

Where an external consultant or private company conducts the research, a contractual agreement should be established to ensure that personal information is collected, retained, used, disclosed and disposed of, in accordance with the *Acts*. A sample agreement of related terms and conditions for a provincial institution is found below.

- The Researcher agrees to comply with the provisions of the *Freedom of Information and Protection of Privacy Act*, and its regulations, in the course of providing Services pursuant to the Agreement.
- The Researcher agrees that it will use and/or disclose data, information, reports, material or other documents of any nature which are disclosed, revealed or transmitted to it by the Institution, or to which it or any of its employees have access, solely for the purpose of conducting the Survey.
- The Researcher agrees that, in conducting the Survey, only the minimal amount of personal information necessary will be collected, used or disclosed.
- The Researcher agrees that when it collects personal information, as defined in the *Freedom of Information and Protection of Privacy Act*, it shall provide the survey respondents with the proper notice of collection, in accordance with section 39(2) of the *Freedom of Information and Protection of Privacy Act*.
- The Researcher agrees that upon completion of the Survey or termination of the Agreement, all personal information collected, used or disclosed during the course of the Agreement will either be disposed of, in accordance with section 40(4) of the *Freedom of Information and Protection of Privacy Act* together with Regulation 459, or returned to the Institution by the date specified in the Agreement.
- The Researcher and the Institution agree that all records created or maintained in the course of providing Services pursuant to this Agreement become and remain the property of the Institution and that such records are or will be under the Institution's "control" within the meaning of section 10(1) of the *Freedom of Information and Protection of Privacy Act*.
- The Researcher agrees that all information involved in the Survey will be kept secure and confidential by the Researcher.

- If a request is made to the Researcher under the *Freedom of Information and Protection of Privacy Act* for access to records generated or maintained in the course of providing Services pursuant to this Agreement, within seven days of receipt of the request, the request must be directed to the Institution's Freedom of Information and Privacy Co-ordinator, together with copies of all responsive records in the custody or under the control of the Researcher.
- If a request is made to the Institution under the *Freedom of Information and Protection of Privacy Act* for access to records generated or maintained in the course of providing Services pursuant to this Agreement, within seven days of being directed to do so by the Institution, the Researcher must provide all responsive records in its custody or under its control to the Institution's Freedom of Information and Privacy Co-ordinator.
- The Researcher must designate a person to be responsible for records management, access to information and protection of privacy matters.